

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA

In Re:)
)
McCrickland, Michael Lance)
)
XXX-XX-6566)
)
Debtor.) Case No: 15-10375 C-13-G
) Chapter 13
)

MOTION TO DISMISS CASE PURSUANT TO 1307 (c) (11)

NOW COMES, Ivy H. Yarbrough (formerly Ivy McCrickard), by and through Counsel and does hereby request that this Court enter an Order dismissing the above captioned case for failure to comply with section 1307 (c) (11) of the Bankruptcy Code and in support thereof shows unto the Court the following:

1. On April 6, 2015, the Debtor filed his petition for Chapter 13 Bankruptcy relief. The Plan was confirmed on July 7, 2015.
2. Ivy H. Yarbrough (formerly Ivy McCrickard) ("Yarbrough") is the owed a Domestic Support Obligation (DSO). Yarbrough has filed a Proof of Claim documenting the DSO as clime number 8.
3. The Debtor is under a child support order to pay the Movant \$400.00 per month on the first of every month.
4. As of the date of this filing the Debtor is behind post-petition on his child support. He is due \$275 for the February 1, 2018 payment. The movant found a check dated February 9, 2018 for \$125 in the child's trapper keeper notebook on February 14, 2018.
5. He has been behind on his post-petition support previously during the course of this chapter 13 case.
6. The most recent instance of the Debtor being behind was that the December 1, 2017 payment was paid December 26, 2017 along with the January 1, 2018 payment.

7. The Debtor also bounced two checks to the movant in attempts to pay the November 1, 2016 child support payment. The Debtor eventually made the payment in early December 2016.
8. The delivery of the Debtor's child support payment is problematic in that the Debtor regularly uses means other than United States Mail for delivery of the payment. The Debtor regularly just buries it in the child's backpack or lunch box, not in an envelope.
9. The Debtor has failed to pay a domestic support obligation that first became payable after the date of the filing of the petition on multiple occasions.
10. The Debtor is as of the date of this motion delinquent on a domestic support obligation that first became payable after the date of the filing of the petition.
11. Therefore, grounds exist under section 1307 (c) (11) to dismiss the Debtor's Chapter 13 case.

WHEREFORE, Ivy H. Yarbrough does respectfully request that this Court enter an Order finding:

1. That the Debtor failed to pay a domestic support obligation that first became payable after the date of the filing of the petition;
2. That the Debtor's case is dismissed; and
3. For such other and further relief as the Court deems just and proper.

Respectfully submitted this 15 February 2018.

/s/J. Marshall Shelton
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CERTIFICATE OF SERVICE

I hereby certify that on February 15, 2018 a copy of the **Motion to Dismiss Case** was served electronically or by first class U.S. mail to the Trustee and all parties listed below.

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This the 15 February 2018

/s/J. Marshall Shelton
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